

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:) Case No: B-1180705 C-13D
STEPHANIE PRESSLEY,)
)
Debtor(s))

)

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee (“Trustee”) and respectfully objects to confirmation of the Debtor’s plan pursuant to 11 U.S.C. §1325(b) and shows unto the Court the following:

1. The Debtor filed a petition under Title 11 of the United States Code, Chapter 13, on April 28, 2011, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On April 28, 2011, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and Local Rule 83.11 entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The Debtor has filed a Chapter 13 plan proposing a monthly plan payment of \$175.00 for a period of at least 36 months. The plan proposes no dividend to unsecured creditors.
5. The Debtor has filed with the plan a Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income, known as Official Form B22C (“Form B22C”). The Debtor lists current monthly income (“CMI”) in Form B22C of approximately \$2,362.21.
6. The Trustee objects to confirmation of the Debtor’s plan in that the Debtor may not be devoting all of her projected disposable income to fund the plan pursuant to 11 U.S.C. §1325(b). The Debtor states that she is married in Schedule I, but fails to list any income for the non-filing spouse in either Schedule I or Form B22C. The Trustee requests a hearing to determine the Debtor’s monthly disposable income, if any.

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtor's plan not be confirmed in that the plan does not comply with the provisions of the Bankruptcy Code, specifically 11 U.S.C. §1325(b), and the case be dismissed for cause pursuant to 11 U.S.C. §1307;
2. For such other and further relief as the Court may deem just or proper.

This the 20th day of June, 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell
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CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Stephanie C. Pressley, 412-A7 E Pilot St., Durham, NC 27703, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 20th day of June, 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell, Esq.
Attorney for the Standing Trustee